

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PATRICK GONZALEZ, :
 :
 : Plaintiff, :
 :
 : -against- :
 :
 : MARIA JONES et al., :
 :
 : Defendants. :
-----X

07 Civ. 2126 (LAP)

ORDER

LORETTA A. PRESKA, Chief United States District Judge:

Plaintiff Patrick Gonzalez ("Plaintiff"), a pro se prisoner, brought this action under 42 U.S.C. § 1983 alleging that certain Defendants wrongfully injured him when they treated him for a hypoglycemic episode. On May 15, 2009, Defendants moved for summary judgment dismissing Plaintiff's Amended Complaint in its entirety. [See dkt. no. 39.] Plaintiff did not oppose Defendants' motion. On November 20, 2009, Magistrate Judge Theodore H. Katz issued a Report and Recommendation ("Report") recommending that this Court grant Defendants' motion. [See dkt. no. 46.] At Plaintiff's request, the Court granted two extensions of time for him to file objections to the Report. [See dkt. nos. 47, 48.] On February 8, 2010, Plaintiff submitted a letter (attached) (hereinafter "Pl.'s Objections") contending that certain documents attached as exhibits to the letter raise a genuine issue of material fact that preclude the grant of Defendants' motion (see id. at 2-3). For the reasons

set forth below, the Court adopts the Report and grants Defendants' motion.

I. Standard of Review

When reviewing a Report and Recommendation, a District Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). The District Court is required to "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C); Grassia v. Scully, 829 F.2d 16, 19 (2d Cir. 1989). Congress used the phrase "de novo determination" in Section 636(b)(1) "to permit whatever reliance a district judge, in the exercise of sound judicial discretion, chose to place on a magistrate's proposed findings and recommendations." United States v. Raddatz, 447 U.S. 667, 676 (1980). A District Judge may, in his or her sound discretion, afford a degree of deference to the Magistrate Judge's Report and Recommendation. See id. When a party makes general or conclusory objections, or simply repeats his or her original arguments, the Court reviews the Report and Recommendation only for clear error. See Barratt v. Joie, No. 96 Civ. 0324, 2002 WL 335014, at *1 (S.D.N.Y. Mar. 4, 2002).

A. Legal Standard for Summary Judgment

A party moving for summary judgment will prevail only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986) (quoting Fed. R. Civ. P. 56(c)). "An issue of fact is 'genuine' if 'the evidence is such that a reasonable jury could return a verdict for the non[-]moving party.' A fact is 'material' for these purposes if it 'might affect the outcome of the suit under the governing law.'" Overton v. New York State Div. of Military and Naval Affairs, 373 F.3d 83, 89 (2d Cir. 2004) (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)). In assessing whether a genuine issue of material fact exists, a court must examine the evidence in the light most favorable to the non-moving party. Lucente v. IBM Corp., 310 F.3d 243, 253 (2d Cir. 2002).

B. Application to the Report and Recommendation

Pursuant to this legal standard, the Court rejects Plaintiff's objections and adopts the Report. The text of Plaintiff's letter merely restates the allegations of the Amended Complaint. (See Pl.'s Objections 2-3.) Exhibit A to

that letter is a reproduction of certain parts of the Amended Complaint. (See id. Ex. A.) As such, these documents do not carry Plaintiff's burden. See Parks Real Estate Purchasing Group v. St. Paul Fire & Marine Ins. Co., 472 F.3d 33, 41 (2d Cir. 2006) ("[T]he party opposing summary judgment may not rest upon the mere allegations or denials of the adverse party's pleading, but . . . must set forth specific facts showing that there is a genuine issue for trial." (Citation and internal quotation marks omitted.)).

Exhibits B, C, and D to Plaintiff's letter consist of certain of Plaintiff's medical records. (See id. Exs. B-D.) These records show the following three facts. First, Plaintiff underwent surgery and post-operative treatment to relieve carpal tunnel syndrome. (See id. at 371-72, 380, 390-91; Exs. C-D.) Second, Plaintiff experienced painful swelling in his forearm beginning shortly after Defendants treated him for his hypoglycemic episode. (See id. Ex. B at 371, 391; Exs. C-D.) Third, Plaintiff suffered from diabetes. (See id. at 395.) These facts do not carry Plaintiff's burden because, taken together with the documents attached to the Amended Complaint, they still do not show that any Defendant caused Plaintiff's carpal tunnel syndrome. To the contrary, Dr. Perilli's Declaration shows that Plaintiff's diabetes caused his carpal tunnel syndrome (see Perilli Decl. ¶ 19), and Plaintiff's

documents do not suggest otherwise. To the extent Plaintiff's alleged injury is not carpal tunnel syndrome but rather the painful swelling in his arm, nothing in Exhibits B-D suggests that any Defendant acted with a "sufficiently culpable state of mind" when treating Plaintiff for his hypoglycemic episode. Salahuddin v. Goord, 467 F.3d 263, 280 (2d Cir. 2006). Indeed, the only permissible inference from all the evidence is that Defendants treated Plaintiff for his medical emergency with a sincere concern for his well being. (See Jones Decl. ¶¶ 9-21 (providing a detailed description of Defendants' course of action in treating Plaintiff for his hypoglycemic episode).) In short, Exhibits B-D do not carry Plaintiff's burden because Plaintiff still has no evidence tending to prove other elements of his claim.

II. CONCLUSION

Having reviewed the Report and Recommendation and finding it thorough and well reasoned, and having reviewed Plaintiff's objections and finding them meritless, the Court adopts the Report and Recommendation to the extent consistent with this Order. Defendant's motion for summary judgment [dkt. no. 39] is GRANTED, and Plaintiff's Amended Complaint [dkt. no. 20] is DISMISSED in its entirety. The Clerk of Court shall mark this action CLOSED and all pending motions DENIED as moot.

SO ORDERED:

DATED: New York, New York
February 11, 2010


LORETTA A. PRESKA, Chief U.S.D.J.

February 4, 2010

Patrick Gonzalez 82A4083
Shawangunk C.F.
P.O. Box 700
Wallkill, New York 12589

Hon. Loretta A. Preska, J., USDC
UNITED STATES DISTRICT COURT
SOUTHERN District Of New York
500 Pearl Street
New York, New York 10007

07 CN 2126

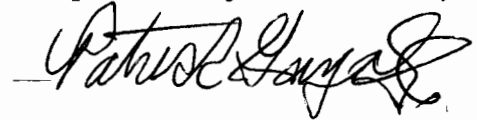
Dear Hon. Judge Preska,

I just wanted to mention that I have a number of witnesses that can attest to various issues. Listed are some of the names:

Dr. Halko - Sing-Sing C.F.
Dr. MaGill - Orthopedist, Westchester Mt. Vernon Hospital
Correction Officer Crespo - Sing-Sing C.F.
Correction Officer Sosa - presently working at Bedford Hills C.F.

and others. I have some inmate witnesses also that were previously mentioned. Thank you for your acknowledgement of this. I'm not well versed in these proceedings and I'm dependent on others to have my work done so I ask that you please instruct the Clerk of the Court if I need do anything further. I thank you wholeheartedly for tolerating my inability to handle these issues without assistance.

Respectfully submitted,



Patrick Gonzalez

RECEIVED

FEB - 8 2010

LORETTA A. PRESKA
U.S. DISTRICT JUDGE
S. D. N. Y.

Mr. Patrick Gonzalez
PO Box 700 - 82A4083
200 Quick Road
Wallkill, New York 12589-0700

2nd February 2010

Hon. Loretta A. Preska, J., USDC
UNITED STATES DISTRICT COURT
Southern District of New York
United States Court House
500 Pearl Street
New York, New York 10007

Re: Patrick Gonzalez -vs- Maria Jones, et al
Civil Action No. #07-CIV-2126(LAP/THK)(SDNY)
In re: Report & Recommendation

Dear Judge Preska:

Please be advised, pursuant to the above-captioned, and foregoing matters, upon receipt of this communication, it is asked, respectfully, that same be accepted, filed and processed as an Objection to the adversed Report and Recommendation. Insodoing, Your Honor's attention is respectfully directed as follows, post, viz:

I-The Hypoglycomic Episode

II-The Complications and Follow-Up Treatment

III-The Post-Surgery Period

In Reply to the Reort and Recommendation, as well as the Defendants' application for "Summary Judgment," Plaintiff respectfully relies upon and submits the following Medical Rords to sustain his allegation as fully set forth in this Complaint [See Exhibit - "A" annexed

IV-Mount Vernon Hospital Medical Records [Exhibit - "B"]

P-370 (9/22/04)- Dr. McGill (Surgeon) description of surgery performed Crapal Tunnel release, release of Tenolysis (Tendolysis) and Flex-or Tendons.

P-371 - Preoperative Diagnosis and Operative indications and findings.

P-372 - Dr. MaGill's Description of Operation mentions all areas where surgery was performed.

P-378 - Dr. MaGill's post-surgery notes, mentions fingers mobie in left hand.

Hon. Loretta A. Preska, J., USDC
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P-380 - Dr. Kun-Young Chung M. D. Report of surgery performed by Dr. McGill (Gross examination, Microscopic examination and Disgnosis)

P-390 - Interdiscilinary pre-operative checklist:
A). Attending Surgeon Verification
B). Anesthesiologist Verfication
C). Nurse Verfication

P-391 - Nursing Diagnosis - Alteration in Comfort:
A). Outcome objective and goals
B). Nursing actions and interventions
C). Teaching

P-394 - Consult for treatment of condition submitted by Dr. Halko from Sing Sing Correctional Facility and Dr. McGill's Consult Report diagnosis.

P-395 - Consult dated 6-18-04 Dr. Halko for EMG assessment of the Plaintiff's condition and Dr. Weinstein's Consult Report of his medical findings of his assessments.

P-396 - Dr. Halko's consult for surgery to be seen by Dr. McGill with Dr. McGill's consult Report

P-397 - Medical History Report(Sing Sing Correctional Facility Hospital (i. e., which states that Plaintiff f requently put in for sick-call for analgesia)(the absence of normal sense of pain)

P-398 - Dr. Halko's Physical Examination Report

Progress Report [See Exhibit - "C" annexed hereto]

Complete Summary of Plaintiff's Medical Condition(s) [See Exhibit - "D" annexed hereto].

EUTHER BE ADVISED, based upon the Complaint, the Medical Records, as well as the fact that Plaintiff's physical conditions as a direct results of the Defendants, currently consists of exerieence a tingling and numbness if his left hand, fingers and arm. At times it will lock up to the point that he cannot lift anything. At times he will lose his sense of feeling in that hand to the extent that he is outright fearful of dropping things when he take them in that hand. It do not allow or permit him to perform certain physical tasks/jobs because his hand will lock on him. He can not type or work with that

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hand at all. After the surgery was performed, the excruciating pain was finally reduced considerably. Its the tingling in the hand and fingers that is yet on-going. Sometimes when his hand locks up, he feel as though the Carpsl Tunnel Syndrone is repeating it self. And, that is very mentally stressful feeling that ensures.

BE ADVISED FURTHER that based upon the "documentary" evidence" as offered, and presented in this case, not one (1) Defendant has disproved the medical records, of which, sustained each and every allegation of the Complaint. Moreover, the "documentary evidence" alone has defeated the Defendants' motion for Summary Judgment. In order for this Court to grant the Defendants Summary Judgment, the following four (4) elements must be sustained, viz:


- 1). Whether the moving party has clearly and convincingly established the absence of material facts;
- 2). If so, whether nonmoving party presented sufficient facts to establish [all] elements of the asserted claim or defense;
- 3). If 'factual' support is presented by the nonmoving party, whether those facts are sufficiently plausible to support a jury verdict or judgment under the applicable law; and
- 4). Whether there are 'any' genuine factual issues with respect to those material facts under governing law.

It is submitted and undisputed that Plaintiff's allegations as fully set forth in the Complaint, and the Medical Records submitted herewith, clearly sustained that Plaintiff's medical and physical conditions are a direct result of the Defendants Deliberate Indifference to him, as well as his medical needs. Therefore, Summary Judgment in this case must be denied, and this Case proceed to trial forthwith.

WHEREFORE, based upon all of the above and foregoing, the Defendant's motion for summary judgment should be denied in all respects and for such other and further relief as shall be deemed just, proper and equitable under the Rules and Statute made and provided in such case.

Sworn And Subscribed Before Me,

This 5 Day Of February 2010.



Notary Public Of New York



s/Patrick Gonzalez-Affiant

My Commission Expires _____

Hon. Loretta A. Preska, J., USDC
Re: Patrick Gonzalez -vs- Maria Jones, et al
Civil Action No. #07-CIV-2126(LAP/THK)(SDNY)
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2nd February 2010
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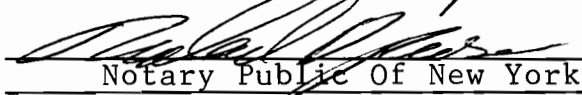
CERTIFICATE OF SERVICE

I hereby certify and on this day of February 2010, I served a copy of the above and foregoing, together, with Exhibits - "A" through "D," by serving a copy thereof, upon all party(s), by mailing, postage pre-paid, upon the following Counsel of Record, post, viz:

Andrew M. Cuomo, Esquire
NEW YORK STATE ATTORNEY GENERAL
Attn: Inna Reznik, AAG
Department of Law
120 Broadway - 24th Floor
New York, New York 10271

Sworn And Subscribed Before Me,

This 5 Day Of February 2010.



Notary Public Of New York



s/Patrick Gonzalez-Affiant

My Commission Expires _____

MICHAEL D. PEARSON
Notary Public in the State of New York
Qualified in Orange County #01PE6211056
My Commission Expires on Sept 8, 2013

EXHIBITS

EXHIBIT "A"

What
happened
to
you?

Who
did
what?

Was
anyone
else
involved
?

Who
else
saw
what
happened?

D. Facts: On 2-20-04, at approximately 5:00 p.m., I was taken to the Sing-Sing C.F. Emergency Room by 4 inmates and Officer Crespo to be treated for a diabetic hypoglycemic (low sugar) reaction. I was treated by Nurse Jones, M., Registered Nurse. I was unconscious, therefore I should have received a glucagon shot, which was available in the E.R. locker for this type of situation. However, Nurse Jones opted to insert an I.V. in my arm. She stabbed me in both arms repeatedly, unable to insert the I.V. needle appropriately. I bled all over the gurney due to her failed attempts. Nurse Administrator Hansen came to Jones' aid, and between the two the I.V. was inserted improperly and tape my arm to the side of the gurney, securing it. I was left unattended by both for a long period of time. I woke in excruciating pain in my arm/hand, especially where needle insertion area (left backhand). My hand/arm were extremely swollen (edema). I asked Officer Crespo to call the nurse as I couldn't tolerate the pain. When Jones appeared I complained of the pain/swelling. I demanded to be seen by a specialist in an outside hospital to alleviate the pain and eliminate the swelling. I was taken to Phelps Memorial Hospital, waited about an hour, and was seen by R.C. Nowak, M.D. He took a cursory glance, and despite my requests to be seen by a Specialist, he sent me back to the Sing-Sing Facility Hospital with instructions to keep me overnight to observe for Necrosis (nerve/tissue/cell damage or death), instead of referring me to be seen by a Specialist (Orthopedist), to ascertain and treat me accordingly, being that I'm a diabetic. I contracted Carpal Tunnel Syndrome that required surgery. I have nerve damage and atrophy. Two inmates and Officer Crespo witnessed what occurred at the Sing-Sing C.F. Hospital and two Officers, Sosa, (and John Doe) witnessed what transpired at Phelps Memorial Hospital, which, as all of the aforementioned, constitute deliberate indifference.

III. Injuries: If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Due to the extreme loss of strength in my arm and the constant pain and tingling feeling in my hand/forearm, which was later diagnosed as Carpal Tunnel Syndrome, I was operated on for release. Presently I still suffer from the constant pain and tingling feeling with loss of strength and atrophy with nerve and irreparable muscle damage. The lack of post surgery Physical Therapy I was subjected to and then completely negated, attributed to my present condition. My arm stiffens up completely at times.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

"CONTINUATION OF FACTS" (from page 3))

The HMO's role was vital to Plaintiff's getting treated as warranted. The HMO was denying requests made for treatments that he/she biasedly deemed unworthy of any treatment.(i.e. to be seen by a Specialist (Orthopedist) for assessment ofr surgery, ditto an EMG/NCS technician. Post-surgery Physical Therapy was wrongfully delayed due to the unjustified HMO denials, furthermore of check-ups by the Orthopedist Surgeon.
pedist/surgeon for any other treatment necessary.

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s). Sing-Sing Correctional Facility.

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No Do Not Know

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)? Most, minus the HMO as in this case and possibly others.

Yes No Do Not Know of all.

If YES, which claim(s)?

D. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose not cover some of your claim(s)?

Yes X No Do Not Know

If YES, which claim(s)?

E. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes X No

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility? I

Yes No

F. If you did file a grievance, about the events described in this complaint, where did you file the grievance? Sing-Sing CoF.

1. Which claim(s) in this complaint did you grieve? Nurse Jones' injuring me (deliberate indifference), Denials (a) medical treatment for injury, b) HMO treatment denials, c) delays and/or no Physical Therapy provided

2. What was the result, if any? Denied all with the exception of one being granted in part regarding no retaliation behalf of the medical dept. or by Corrections Officers or staff for filing my grievance against Jones.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. In all the grievances I appealed to the Superintendent, Brian Fischer, then appealed all his denials to the Inmate Grievance Program Central Office Review Committee, hence, exhausting all available remedies afforded to me by the N.Y.S. Department Of Correctional Services.

G. If you did not file a grievance, did you inform any officials of your claim(s)?

EXHIBIT “B”

THE MOUNT VERNON HOSPITAL
Mt. Vernon, New York 10550

GONZALEZ, PATRICK #000291236

DATE OF OPERATION: SEPTEMBER 22, 2004

SURGEON: RICHARD M. MAGILL, M.D.

ASSISTANT: MAZDA ALAIE, S.A.

PREOPERATIVE DIAGNOSIS: LEFT CARPAL TUNNEL SYNDROME AND
ADHESIONS OF THE INDEX AND LONG FINGER
FLEXOR TENDONS

POSTOPERATIVE DIAGNOSIS: SAME

OPERATIVE PROCEDURE: LEFT CARPAL TUNNEL RELEASE.
EXPLORATION AND TENOLYSIS OF THE
FLEXOR TENDONS IN THE FOREARM.
PROXIMAL MUSCULOTENDINOUS LENGTHENING
OF THE INDEX AND LONG SUPERFICIALIS
TENDONS

ANESTHESIA: GENERAL ENDOTRACHEAL

ESTIMATED BLOOD LOSS: MINIMAL

REPLACEMENT: CRYSTALLOID

COMPLICATIONS: NONE

CONDITION: STABLE

TOURNIQUET TIME: APPROXIMATELY 60 MINUTES

OPERATIVE INDICATIONS AND FINDINGS:

Fifty-one year old male diabetic presents with left carpal tunnel syndrome and in addition has evidence of adhesions of the index and long finger flexor tendons. He had a history of an IV infiltration and significant swelling of the proximal forearm and he reports that his symptoms started soon after this. His EMG's are positive. He has thenar atrophy. He is indicated for carpal tunnel release and a tenolysis of his flexor tendons with exploration of the tendons for the point of adhesion.

THE MOUNT VERNON HOSPITAL
Mt. Vernon, New York 10550

2

GONZALEZ, PATRICK

#000291236

DESCRIPTION OF OPERATION:

The patient was brought to the Operating Room where general endotracheal anesthesia was administered. The left upper extremity was prepped with Betadine solution and draped in the usual sterile fashion. An extended carpal tunnel incision is made into the left wrist. Using sharp and blunt dissection the incision is carried down to the flexor retinaculum which is released from distal to proximal after placing a hemostat into the carpal canal and transecting the flexor retinaculum on its ulnar border. The incision extended proximally and the nerves and tendons are identified proximally. There is no evidence of adhesions in the tendons in the carpal canal or in the distal forearm. The incision was extended proximally towards the elbow in 2 inch increments and each of the tendons of the fingers are traced proximally. The incision is carried up to the proximal muscle tendon junction of the tendons and this is where adhesions and scarring are found and as noted with attempted passive extension of the long and ring fingers that these areas are tight. The tendons are lengthened at the musculotendinous junction making step-cuts in each of the tendons to allow the finger to be fully extended with the wrist extended. The wounds are irrigated. The skin is closed with 4-0 nylon suture. A bulky soft dressing is applied with a splint. The patient was awakened and taken to the Recovery Room in stable condition having tolerated the procedure well.



RICHARD M. MAGILL, M.D.

RMM/bg
T 10/08/04

Fri Sep 24, 2004 09:59 am
Surgical Pathology Report

Copy COPY

1

Patient: GONZALEZ, PATRICK Age: 51Y Sex: M
Unit#/Acct#: V000291236/V10088565 Case#: S04-2236
Location: ASM Accn#: 5020248
Att Phys-Serv: MAGILL, RICHARD - V-AMBULATORY SURG Completed: 09/24/04 0959
Ordering Phys: MAGILL, RICHARD Received: 09/23/04 0907
Order Dx: LT CARPAL TUNNEL RELEASE W/TEN Collected: 09/22/04 0000
***** SURG PATH, GROSS & MICRO LEV IV *****

Specimen(s):

Specimen Type:

Muscle tendon junction, left hand.

CLINICAL INFORMATION:

Carpal tunnel syndrome, left middle finger.

GROSS EXAMINATION:

In formalin and labeled as muscle and tendon of left hand, the specimen consists of three irregular fragments of gray-white to tan, rubbery, fibromuscular tissue, the largest measures 1.5 x 1 x 0.7 cm in dimension. Submitted entirely.

MICROSCOPIC EXAMINATION:

The slide is reviewed.

DIAGNOSIS:

Fibromatosis,
Tendon, left middle finger, excision of.

2B

By: Kun-Young Chung, M.D.

Signature on file: Kun-Young Chung, M.D.

End of Report - 09/24/04 10:00am

Surgical Pathology Report
Final

LABORATORY (V)

GONZALEZ, PATRICK
V000291236/V10088565

The Mount Vernon Hospital

12 North Seventh Avenue
Mount Vernon, New York 10550

Department of Pathology and Laboratories
Kun-Young Chung M.D., Director

THE MOUNT VERNON HOSPITAL INTERDISCIPLINARY PRE-OPERATIVE CHECKLIST

This form must be completed and signed by the Attending Surgeon. All elements must be completed and answered in the affirmative BEFORE the patient can be moved into the operating room. The Attending Anesthesiologist will sign when all elements have been completed by Attending Surgeon.

000291236
GONZALEZ, PATR
DIN 82A4083
M 51Y DOB 01/26/1953
MAGILL, RICHARD
REG 09/22/04 10088365

ATTENDING SURGEON VERIFICATION		Attending Initial
[1] I have reviewed the History and Physical Examination dated <u>9/2</u> and there has been no significant change in the patient's condition since the date of examination.		
[2] Indications for Proposed Surgery have been reviewed by me.		
[3] I have verified the Consent Form in the hospital Medical Record and countersigned the Consent Form.		
[4] Patient/Family/Significant Other/Guardian verification.		
[5] I have verified and marked the Surgical Site with the patient (when indicated):		
[6] Right <input type="checkbox"/> Left <input checked="" type="checkbox"/> Surgical Site is marked.		
ATTENDING SURGEON'S SIGNATURE:		DATE: <u>9/2/04</u>
ANESTHESIOLOGIST VERIFICATION		
The operative site/side (or the level for spine surgery) has been verified by a review of the Following:		
[<input checked="" type="checkbox"/>] Proposed procedure as planned by Surgeon. <u>Carpal tunnel Release</u>		
[<input checked="" type="checkbox"/>] Review of the Medical Record and Informed Consent.		
[<input checked="" type="checkbox"/>] Right <input checked="" type="checkbox"/> Left <input checked="" type="checkbox"/> Surgical Site is marked.		
ANESTHESIOLOGIST'S SIGNATURE:		DATE: <u>9/2/04</u>
NURSE VERIFICATION		
The operative site/side (or level for spine surgery) has been verified by a review of the Following:		
[<input checked="" type="checkbox"/>] Operative Schedule. <u>Release left Carpal Tunnel & Tendons</u>		
[<input checked="" type="checkbox"/>] Proposed procedure as planned by Surgeon:		
[<input checked="" type="checkbox"/>] Review of the Medical Record and Informed Consent.		
[<input checked="" type="checkbox"/>] Patient/Family/Significant Other/Guardian verification.		
[<input checked="" type="checkbox"/>] Right <input checked="" type="checkbox"/> Left <input checked="" type="checkbox"/> Surgical Site is marked.		
CIRCULATING NURSE'S SIGNATURE:		DATE: <u>9/2/04</u>
TIME OUT: The Surgeon, Anesthesiologist and the Circulating Nurse verified the correct patient, surgical site/side and procedure. Verification was completed in the OR, prior to the surgery/procedure commencing.		
CIRCULATING NURSE'S SIGNATURE:		DATE: <u>9/2/04</u>

THE MOUNT VERNON HOSPITAL
MOUNT VERNON, N.Y.

000291236
GONZALEZ, PATRICK
DIN 82A4083
M 51Y DOB 01/26/1953
KAGILL, RICHARD
REG 09/22/04 10088565

NURSING DIAGNOSIS: ALTERATION IN COMFORT RE: _____

A. OUTCOME OBJECTIVES AND GOALS:

1. Patient's comfort level will improve as evidenced by decreases or absent discomfort, either verbalized or non-verbalized (decreased grimacing, crying, etc).
- 2.
- 3.
- 4.
- 5.
- 6.

B. NURSING ACTIONS AND INTERVENTIONS

1. Assess for pain and medicate as indicated.
2. Promote comfort: imagery, quiet environment, _____,
- 3.
4. Reassess for pain when vital signs are taken, and more frequently as needed.
- 5.
- 6.
- 7.
- 8.
- 9.

C. TEACHING

1. Teach patient means of achieving comfort.
2. Initiate health referral prn.
- 3.
- 4.
- 5.

DATE STARTED: 9/22/04 SIGNATURE [Signature]
DATE STOPPED: _____ SIGNATURE _____

3194 (01/00)

NYSDOCS REQUEST & REPORT OF CONSULTATION

ATTENTION:
DO NOT TELL
INMATE OF
FUTURE
APPOINTMENTSName GONZALES PATRICIAFacility SACFDIN 824 1083 DOB 1-26-53 Date 07-30-04

Coordinated Care In

Referral # 04158CCP decision? Yes ☐ No ☒Consultation Type Initial ☐Follow up ☐ Procedure ☐ Telemed ☐TOS Code ☐ POS Code ☐Date: ☐ Time: ☐Consult Requested By: M. Halko To: HAND SURG.TOS/POS* ADM.

Reason for consultation (include lab findings, x-ray results, current needs and treatments.)

Previous consult attached 7-29-04

This 51y. old with carpal tunnel syndrome with ligament adhesions recommended by Dr. Magill surgical release of carpal tunnel and Tenolysis of hand.

1-2 months

Urgency of Care: Emergency ☐ 24 HOURS Urgent ☐ 5 DAYS Soon ☐ 14 DAYS Routine ☐ 30 DAYS Assigned ☒ MORE THAN 30 DAYSTransportation: Wheelchair ☐ Litter ☐ HCA ☐ Nurse ☐ Ambulance ☐

CONSULTANT REPORT

If this is a telemedicine encounter, has the inmate read the instructional sheet or been instructed on the telemedicine encounter? Yes ☐ No ☐

S:

O:

A:

P:

① Carpal Tunnel Release
Tenolysis of Flexor tendons

Keep splint and dressing intact
Rem of digits encouraged active/passive

Post Pain Meds q 4-6h PRN X 2wk

No cuff @ wrist

F/U 10/1/04 DOC: Chen

9/30/04

FACILITY MD REVIEWER/DATE

CONSULTANT
SIGNATURE
(Please Print)DATE: 9/22/04IF FOLLOW-UP
RECOMMENDED,
REQUESTED BY: 9/30/04

Consultation is a recommendation. Final determination will be made by the inmate's NYSDOCs physician

*TOS/POS - Write type of service / Place of service here

DISTRIBUTION: WHITE - INMATE HEALTH RECORD CANARY - CONSULTANT
PINK - VENDOR CLINIC RECORD GOLDENROD - PENDING CONSULT COPYATTENTION:
DO NOT TELL INMATE OF
FUTURE APPOINTMENTS

3-57701(K 0)

NYSDOCS REQUEST & REPORT OF CONSULTATION

ATTENTION:
DO NOT TELL
INMATE OF
FUTURE
APPOINTMENTSName GONZALEZ PATRICKFacility SSC 12DIN 1274083 DOB 1-26-53 Date 06/18/07

Coordinated Care Information

Referral # 04158836-01CCP decision? Yes ☐ No ☐Consultation Type Initial ☐Follow up ☐ Procedure ☐ Telemed ☐TOS Code ☐ POS Code ☐Date: ☐ Time: ☐Consult Requested By: Dr. Hallett To: HAND CLINICTOS/POS: Dr. Magill

Reason for consultation (include lab findings, x-ray results, current needs and treatments.)

This 54 y old male with DM I x 21 years, diabetes is brittle. Recent development of paresthesia and numbness of @ hand manifested w/ EKG L.V.E. which is now abnormal. Suggestive of carpal tunnel sy superimposed on diabetic neuropathy. NCS/EMG reports attached.

Urgency of Care: Emergency ☐ 24 HOURS Urgent ☐ 5 DAYS Soon ☐ 14 DAYS Routine ☒ 30 DAYS Assigned ☐ MORE THAN 30 DAYS

Transportation: Wheelchair ☐ Litter ☐ HCA ☐ Nurse ☐ Ambulance ☐

CONSULTANT REPORT

If this is a telemedicine encounter, has the inmate read the instructional sheet or been instructed on the telemedicine encounter? Yes ☐ No ☐

S:

@ hand numbness / weakness

O:

constant pain wakes @ night
"has to shake out hand"
has hx of IDDM / had hx of IV infiltration
PK: @ hand then a trophy

A:

Atrophy of 1st dorsal interosseous
mus contractions of long & ring @ joints
twist extension

P:

Ing! @ carpal tunnel syndrome

FACILITY MD REVIEWER/DATE

CONSULTANT
SIGNATURE
(Please Print)DATE: 7/24/07IF FOLLOW-UP
RECOMMENDED,
REQUESTED BY:mt 7-20-07schedule130-60 dy

Consultation is a recommendation. Final determination will be made by the inmate's NYSDOCS physician

TOS/POS - Write type of service / Place of service here

DISTRIBUTION: WHITE - INMATE HEALTH RECORD CANARY - CONSULTANT
PINK - VENDOR CLINIC RECORD GOLDENROD - PENDING CONSULT COPY

ATTENTION:
DO NOT TELL INMATE OF
FUTURE APPOINTMENTS

New consult generated in 6

192 (6-1-00)

NYSDOCS REQUEST & REPORT OF CONSULTATION

ATTENTION:
DO NOT TELL
INMATE OF
FUTURE
APPOINTMENTSName GONZALES PATRICKFacility SSCFDIN 824 4283 DOB 1-26-83 Date 07-30-04

Coordinated Care Informa

Referral # 0415883602CCP decision? Yes ☐ No ☐Consultation Type Initial ☐Follow up ☐ Procedure ☐ Telemed ☐TOS Code ☐ POS Code ☐Date: ☐ Time: ☐Consult Requested By: Hand SurgeTo: HAND SURGETOS/POS: ADM.

Reason for consultation (include lab findings, x-ray results, current needs and treatments.)

Previous consult attached 7-29-04

This 51y. old with carpal tunnel syndrome with ligament adhesions recommended by Dr. Magill surgical release of carpal tunnel and Tenolysis of hand.

Urgency of Care: Emergency ☐ 24 HOURS Urgent ☐ 5 DAYS Soon ☐ 14 DAYS Routine ☐ 30 DAYS Assigned ☐ MORE THAN 30 DAYSTransportation: Wheelchair ☐ Litter ☐ HCA ☐ Nurse ☐ Ambulance ☐

CONSULTANT REPORT

If this is a telemedicine encounter, has the inmate read the instructional sheet or been instructed on the telemedicine encounter? Yes ☐ No ☐

S:

O:

A:

P:

① Carpal Tunnel Release

Tenolysis of Flexor tendons

Keep splint and dressing intact
Range of digits encouraged active/passive

Oral pain meds q 4-6h PRN X 2wk

No cuff @ wrist

P/U 10/6/04 DOC's cleared

9/30/04

FACILITY MD REVIEWER/DATE

CONSULTANT
SIGNATURE
(Please Print)

DATE

9/24/04

IF FOLLOW-UP
RECOMMENDED,
REQUESTED BY: Hand Surge

9/30/04

Consultation is a recommendation. Final determination will be made by the inmate's NYSDOCS physician

*TOS/POS - Write type of service / Place of service here

DISTRIBUTION: WHITE - INMATE HEALTH RECORD CANARY - CONSULTANT
PINK - VENDOR CLINIC RECORD GOLDENROD - PENDING CONSULT COPYATTENTION:
DO NOT TELL INMATE OF
FUTURE APPOINTMENTS

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

PHYSICAL EXAMINATION

 ADMISSION ☐ PAROLE VIOL ☐
 PRE-PAROLE ☐ OTHER (Specify) ☐

INMATE NO. 82A4083		NAME (Last, First) CONZALEZ PATRICK				SHORT NAME		FAC. NO.	
PULSE 64	TEMP. 98.6	WT. 165	HT. 5'7"	B.P. 100/60	RESP. 18	DATE PER. PHYS. DUE			
VISION		UNCORRECTED		CORRECTED		HEARING			
RIGHT		20/20		1		RIGHT		NORMAL <input checked="" type="checkbox"/>	ABNORMAL <input type="checkbox"/>
LEFT		20/20		1		LEFT		NORMAL <input checked="" type="checkbox"/>	ABNORMAL <input type="checkbox"/>
COLOR TEST		NORMAL <input checked="" type="checkbox"/>		TEST USED		HEARING AID		YES <input type="checkbox"/>	NO <input type="checkbox"/>
		ABNORMAL <input type="checkbox"/>		ISHIARA <input type="checkbox"/> OTHER <input type="checkbox"/>					
NORMAL <input checked="" type="checkbox"/>		ABNORMAL <input checked="" type="checkbox"/>		(Leave blank if not examined)		LABORATORY TEST (Check if ordered)			
1. SKIN <input checked="" type="checkbox"/>		9. THROAT <input checked="" type="checkbox"/>		17. GENITALIA <input type="checkbox"/>		25. URINALYSIS <input type="checkbox"/>			
2. GAIT <input checked="" type="checkbox"/>		10. ORAL CAVITY <input checked="" type="checkbox"/>		18. SPINE <input checked="" type="checkbox"/>		26. CBC AND DIFFERENTIAL <input type="checkbox"/>			
3. SPEECH <input checked="" type="checkbox"/>		11. NECK <input checked="" type="checkbox"/>		19. DIGITAL RECTAL EXAM <input type="checkbox"/>		27. CHEM. PROF. W/LIPO. <input type="checkbox"/>			
4. SCALP <input checked="" type="checkbox"/>		12. CHEST <input checked="" type="checkbox"/>		20. PELVIC <input checked="" type="checkbox"/>		28. RPR <input type="checkbox"/>			
YES/PUPILS <input checked="" type="checkbox"/>		13. BREAST <input checked="" type="checkbox"/>		21. NEUROLOGICAL <input checked="" type="checkbox"/>		29. CHEST X-RAY <input type="checkbox"/>			
6. FUNDI <input checked="" type="checkbox"/>		14. LUNGS <input checked="" type="checkbox"/>		22. EXTREMITIES <input checked="" type="checkbox"/>		30. EKG if over 40 <input type="checkbox"/>			
7. NOSE <input checked="" type="checkbox"/>		15. HEART <input checked="" type="checkbox"/>		23. LYMPH NODES <input checked="" type="checkbox"/>		31. MANTOUX <input type="checkbox"/>			
8. EARS <input checked="" type="checkbox"/>		16. ABDOMEN <input checked="" type="checkbox"/>		24. MUSCULO-SKELETAL <input checked="" type="checkbox"/>		32. FEMALES - PAP SMEAR if over 20 <input type="checkbox"/>			
DOES THIS INMATE REQUIRE INTERPRETER SERVICES (SIGN LANGUAGE)? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES									
DOES INMATE NEED LANGUAGE INTERPRETATION? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, LANGUAGE SPOKEN _____									
DOES THIS INMATE REQUIRE REASONABLE ACCOMMODATIONS? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES, DESCRIBE _____									

ABNORMAL FINDINGS (Refer to Number)

*dark skin to toes. left upper arm/shoulder.
Decreased muscular strength L. hand.*

BEHAVIORAL ASSESSMENT

Excellent

WORK CLASSIFICATION / MESS HALL CLEARANCE

 NO LIMITATION ☐ LIMITATION ☒ (DESCRIBE)

as of now

MEDICAL CLASSIFICATION - Update q 6 months

REC. DATE _____	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
DATE _____	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
DATE _____	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
DATE _____	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
*DATE _____	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>

 SIGNATURE &
PROVIDER NO. _____

 RN SIGNATURE &
PROVIDER NUMBER _____

 DATE: *09-17-04*

EXHIBIT “C”

PROGRESS RECORD

NAME: RICHARD
 008 01/26/1991
 10008515
 Rm. No. Hosp. No. Doctor

DATE

9/22/07

Post-Op

Pre-Op

carpal tunnel + Adhesion, Flexor tend.

Post-Op: 1.0m

Surgical Dr. M. April.

Assistant: M. April

Procedure: Release of the carpal tunnel
 + Release of tendons + Flexor tendon.

Anesthesia: General Dr. Phelps.

BSI: M. April

Turnout time:

pt tolerated well + Return to nursing room
 in sitting position
 needs to be able to move post-Op.

Yeh H. April

EXHIBIT “D”



DEPARTMENT OF ORTHOPAEDIC SURGERY
NEW YORK MEDICAL COLLEGE
19 BRADHURST AVENUE, SUITE 1300N
HAWTHORNE, NEW YORK 10532

82A4083

RICHARD M. MAGILL, M.D.
914-789-2733
914-789-2743 FAX

HAND & UPPER EXTREMITY SURGERY
MICROVASCULAR SURGERY

August 12, 2004

Dr. Halkow
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562

Re: PATRICK GONZALEZ

Dear Dr. Halko:

Mr. Patrick Gonzalez was seen in the Clinic on 7/29/04. He is a 51 year old male with a history of diabetes, recent development of paresthesias and numbness of the left hand with positive NCS and EMG's suggestive of carpal tunnel with suprainposed diabetic neuropathy. In his complaint he reports numbness, weakness, constant pain which wakes him at night and he has to shake the hand out. He has a history of an IV infiltration causing a significant edema of the forearm. He relates the symptoms after this injury.

On exam he is noted to have thenar atrophy, atrophy also of the first dorsal interosseous. He also is noted to have contracture of his long and ring finger IP joints with wrist extension suggestive of adhesions of the long and ring finger superficialis tendons. Based on his positive EMG and nerve conduction velocity studies, his history especially of numbness, weakness, waking at night and having to shake the hand out which is very characteristic of carpal tunnel syndrome and the physical evidence of thenar atrophy and the tendon adhesions I have recommended a carpal tunnel release with tenolysis of the flexor tendons. The tendon contractors may also indicate that the patient had a mild form of compartment syndrome at the time of his IV infiltration. It is unlikely conservative treatment will correct the adhesion that have developed in his tendons and the approach to the tendons would involve a standard carpal tunnel release as well as an incision above the wrist to completely address the adhesions that he has developed after this IV infiltration.

If you have any questions feel free to contact me.

Sincerely,

Richard M. Magill, M.D.

RMM/lp
T 08/13/04